

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1690 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

AGRICULTURAL PRODUCE MARKET COMMITTEE, SURAT

Versus

PRADIPKUMAR D BAROT & OTHERS

Appearance:

MR DG CHAUHAN for Petitioner
MR HK RATHOD for Respondent No. 2
MR NN PANDYA for Respondent No. 3
None present for other respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/07/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner has prayed for issuance of writ of prohibition and/or an order prohibiting the Labour court from dealing with the Reference (LCS) Nos. 689 of 1982 and 697 of 1982. The prayer has been made for the interim relief for stay of the proceedings in the aforesaid two references before the Labour court at Surat. This court

though issued rule, but interim relief has not been granted. The counsel for the petitioner on a question put to him by the court is unable to give reply that those references have been decided or not. The counsels for the respondents are also not in a position to say anything in this regard. The learned counsel for the petitioner has failed to make out a case for interference in the matter. The writ of prohibition can only be issued to the Labour court in case it has no jurisdiction to hear the references made to it of the Industrial Disputes. Moreover, the Labour court Surat has not been impleaded as a party. The counsel for the petitioner contended that the references which have been made by the State Government in the present case to the Labour court, Surat were incompetent. The petitioner is not an industry and as such, no reference could have been made of the Industrial Disputes. The Counsel for the petitioner does not dispute that the Industrial Dispute relates to the termination of the services of the workmen.

2. I have given my thoughtful consideration to the submission made by learned counsel for the petitioner. It is the say of the petitioner that petitioner is not an industry and on this ground, it cannot be said that the Labour court, Surat has no jurisdiction to hear the references. This is a question of fact basically of the nature which depends on the adjudication of many facts. The petitioner instead of filing this Sp. Civil Application could have approached to the Labour court to which the references are made and point could have been raised there. The Labour court was within its jurisdiction to decide this point and if it would have decided this point against the workman, it could have declined to answer the references. The petitioner is not correct in his approach to file this Sp. Civil Application on a question which has to be raised and decision should have been taken thereon by the Labour court. To be very specific, the petitioner has not challenged the order of making of the references to the Industrial Disputes of the State Government to the Labour court, Surat and so this writ petition is wholly misconceived. In the result, this Sp. Civil Application fails and the same is dismissed. Rule discharged.